

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

CHERANNZETTA STAGGER,

Plaintiff,

v.

EXPERIAN INFORMATION SOLUTIONS,
INC.,

Defendant.

Case No.: 1:21-cv-2001

Honorable John J. Tharp, Jr.

**MOTION TO SUPPLEMENT THE
RECORD**

Plaintiff Cherannzetta Stagger (“Plaintiff”), by counsel, pursuant to Federal Rule of Appellate Procedure 10(e), and in connection with the Opening Brief in the 7th Circuit Court of Appeals, respectfully submits this Motion to Supplement the record. In support of this Motion, Plaintiff relies upon the accompanying Brief in Support.

Prior to filing this Motion, Plaintiff’s counsel met and conferred with Experian’s counsel on April 25, 2022, and Experian’s counsel is opposed to supplementing the record to include a full copy of the attached Exhibit A- Plaintiff’s myFICO Score Report dated 03/02/2022.

BRIEF IN SUPPORT

I. BACKGROUND

On February 9, 2022, the Court granted Defendant Experian Information Solutions, Inc.’s (“Defendant”) motion to dismiss, finding that Plaintiff lacked Article III standing. Doc. 68, Order. In so doing, the Court relied upon two credit reports generated by Experian and found:

While Experian's report was inaccurate, the inaccuracy in this case was not defamatory; if anything, it cast Stagger in a more positive light financially than she deserved.

* * *

Experian, however, showed through two credit reports, one containing the inaccuracy and the corrected report, that the inaccuracy actually increased Stagger's credit score. The report listed her consistent payments on the loan as positive activity; after that inaccurate report was corrected, Stagger's credit score went down.

Doc. 68 at pp. 2-3.

Plaintiff had requested that the Court not consider matters outside the pleadings since discovery was ongoing, and to permit completion of discovery. Doc. 58, Plaintiff's opposition to Experian's motion to dismiss.

II. RELEVANT STANDARD OF LAW

Federal Rule of Appellate Procedure 10(e) allows a party to request to supplement the appellate record:

(e) Correction or Modification of the Record.

- (1) If any difference arises about whether the record truly discloses what occurred in the district court, the difference must be submitted to and settled by that court and the record conformed accordingly.
- (2) If anything material to either party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected and a supplemental record may be certified and forwarded:
 - (A) on stipulation of the parties;
 - (B) by the district court before or after the record has been forwarded; or
 - (C) by the court of appeals.
- (3) All other questions as to the form and content of the record must be presented to the court of appeals.

Fed. R. App. P. 10(e).

The purpose of the rule is "to ensure that the record reflects what really happened in the district court." *Gallo v. Mayo Clinic Health System-Franciscan Medical Center, Inc.*, 907 F.3d 961, 964 (7th Cir. 2018) (quoting *United States v. Banks*, 405 F.3d 559, 567 (7th Cir. 2005)). It is not designed to allow "the losing party to add new material to the record in order to collaterally attack the trial court's judgment."

III. ARGUMENT

Plaintiff respectfully contends the record should be supplemented to permit Plaintiff to file a complete copy of a myFICO report containing the tradeline information reported by Experian. Experian supplied the Court with two reports that Experian created on its own for use in this litigation. These reports contain numerous material misrepresentations by Experian. Plaintiff has since discovered a myFICO report from the FICO website where Experian reported additional derogatory information in the "corrected" report that conflicts with the report provided to the Court (which Experian intended to show that Plaintiff's score "decreased" because of the correction).

Below are the report excerpts that Experian provided to the Court:

OPP LOANS Partial Acct # LAI0056.... 130 E RANDOLPH ST STE 3400 CHICAGO IL 60601; (312) 212 8079				Status (May 2019) Open/Never late.	
Type Unsecured	Date opened Mar 2019	Address ID # 0125374913	Credit limit or original amount \$2,900	Recent balance \$2,426 as of May 2019	Responsibility Individual
Terms 11 Months	Monthly payment \$389	High balance Not reported	Recent payment \$540		

Experian Report excerpt, May 5, 2021.

OPP LOANS Partial Acct # LAI0056....			Status (Jun 2020) Discharged through Bankruptcy Chapter 7/ Never late.
130 E RANDOLPH ST STE 3400 CHICAGO IL 60601; (312) 212 8079			
Date opened Mar 2019	Terms 11 Months	Recent balance Not reported	Payment history: Apr 2019 - Jun 2019
Address ID # 0125374913	Monthly payment Not reported	This account is scheduled to continue on record until May 2026.	JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC
Type Unsecured	Credit limit or original amount \$2,900	This item was updated from our processing of your dispute in May 2021.	OK OK OK
Responsibility Individual	High balance Not reported		

Experian Report excerpt, May 14, 2021.

However, the “post-correction” report on May 14, 2021 was not an accurate or complete representation of Experian’s reporting of the OPP LOANS tradeline. Plaintiff has since discovered Experian failed to disclose it was also reporting additional derogatory information that led to the purported score decrease, including: (i) a worst delinquency reflecting that the account status was “Charge-Off/Other Derog,” (when the Account was *actually* “current/never late”) and a “CO” (Charge-Off) for June 2020 followed by NR (no ratings thereafter). By contrast, the report provided to the Court omitted this information and reported a payment history of “OK” for June 2020, clearly a discrepancy. Experian’s reports were therefore not accurate representations to the Court for the purpose which they were submitted. Prior to Plaintiff obtaining her March myFICO Experian report, Plaintiff would have had no reason to believe Experian’s “post-correction” disclosure was inaccurate.

3/2/22, 5:57 PM

Printable 3B Report | myFICO

myFICO

Opportunity Financia

CLOSED

	Equifax				TransUnion				Experian			
Last Updated	07/2019				05/2019				06/2020			
Payment Status	<div><div></div><div>Pays account as agreed</div></div>				<div><div></div><div>Paid or paying as agreed</div></div>				<div><div></div><div>Debt included in or discharged through Bankruptcy Chapter 7, 11, or 12</div></div>			
Worst Delinquency	None Reported				None Reported				Charge Off/Other Derog			
Balance	\$0				\$0				-			
Credit Limit	-				-				-			

2-YEAR PAYMENT HISTORY

2020	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Experian	OK	OK	OK	OK	OK	CO	NR	NR	NR	NR	NR	NR
TransUnion	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR
Equifax	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR

Ex. A, myFICO report dated March 2, 2022.

Accordingly, Plaintiff respectfully requests that this Honorable Court allow Plaintiff to supplement the record with a complete copy of the myFICO report.

RESPECTFULLY SUBMITTED this 23rd day of May 2022.

/s/Dawn M. McCraw
 Dawn M. McCraw (IL #035321)
 PRICE LAW GROUP, APC
 8245 N. 85th Way
 Scottsdale, AZ 85258
 T: (818) 600-5585
 F: (818) 600-5485
 E: dawn@pricelawgroup.com
 Attorney for Plaintiff,
 Cherannzetta Stagger

CERTIFICATE OF SERVICE

I hereby certify that on May 23rd, 2022, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which will send notice of such filing to all attorneys of record in this matter.

/s/Jacey Gutierrez